

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

VELOCITY PATENT LLC,

Plaintiff,

v.

AUDI OF AMERICA, INC.
AUDI OF AMERICA, LLC,

Defendants.

Case No: 1:13-cv-8418

Honorable Joan B. Gottschall

JURY TRIAL DEMANDED

**DEFENDANTS' MOTION TO DISMISS
VELOCITY'S COMPLAINT FOR FAILURE TO STATE A CLAIM**

Pursuant to Fed. R. Civ. P. 12(b)(6), defendants Audi of America, Inc. and Audi of America, LLC, by and through their undersigned counsel, hereby move this Court to dismiss plaintiff Velocity Patent LLC's Complaint for Patent Infringement for failing to state a claim for relief. In further support of the motion, Audi states as follows:

1. On November 21, 2013 Velocity filed its Complaint, which alleges that the Audi defendants are manufacturing, using, importing, offering to sell and selling automobiles in the United States that are equipped with "information displays," "radar equipment," "engines with cylinder on demand technology" and "manual gear shifting features" and as a result, have infringed "at least claim 17" of U.S. Patent No. 5,954,781. *See* D.E. 1 ¶¶ 12–16.

2. For the reasons stated in more detail in Defendants' Brief in Support of Their Motion to Dismiss Velocity's Complaint for Failure to State a Claim, filed herewith, the Complaint fails to state a claim for relief, and thus should be dismissed. The Complaint is insufficient to state a claim for patent infringement because it does not assert that Velocity has

notified the Audi defendants of their alleged infringement, and also because it does not identify any specific products that allegedly infringe, or even plead that any displays, radar equipment, engines or manual gear shifting features that may be used in Audi vehicles include any of the electronic circuits that are claimed in the Velocity patent.

WHEREFORE, pursuant to Fed. R. Civ. P. 12(b)(6), Audi respectfully moves this Court for an Order dismissing Velocity's Complaint for failing to state a claim for patent infringement upon which relief can be granted.

Dated: January 27, 2014

Respectfully submitted:

/s/ Jeffrey M. Drake

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